

House Bill 641

By: Representatives Bruce of the 64th, Fludd of the 66th, and Heckstall of the 62nd

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling and related offenses, so as to revise definitions relative to gambling and related offenses; to revise a provision relating to bona fide coin operated amusement machines; to authorize any county or any municipal corporation by referendum to approve the operation of pari-mutuel betting on horse races and dog races, the operation of casinos, or the operation of pari-mutuel betting on horse races and dog races and casinos within the unincorporated area of a county or within a municipal corporation; to provide for procedures for initiating and conducting a referendum; to provide for subsequent elections and nullification; to provide for the effect of approving the operation of pari-mutuel betting on horse races and dog races or the operation of casinos; to provide for supervision of the operation of pari-mutuel betting on horse races and dog races and casinos by the Georgia Lottery Corporation; to provide for rules and regulations; to provide for selection of providers of pari-mutuel betting on horse races and dog races and casinos; to provide for the levy and collection of certain taxes, fees, or assessments; to provide for related matters; to provide for a contingent effective date; to provide for automatic repeal in specified circumstances; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling and related offenses, is amended by revising paragraph (2) of Code Section 16-12-20, relating to definitions relative to gambling, as follows:

"(2) 'Gambling device' means:

~~(A) Any~~ any contrivance which for a consideration affords the player an opportunity to obtain money or other thing of value, the award of which is determined by chance even though accompanied by some skill, whether or not the prize is automatically paid by contrivance; except as otherwise provided in Part 3 of this article.

~~(B) Any slot machine or any simulation or variation thereof;~~

~~(C) Any matchup or lineup game machine or device, operated for any consideration, in which two or more numerals, symbols, letters, or icons align in a winning combination on one or more lines vertically, horizontally, diagonally, or otherwise, without assistance by the player. Use of skill stops shall not be considered assistance by the player; or~~

~~(D) Any video game machine or device, operated for any consideration, for the play of poker, blackjack, any other card game, or keno or any simulation or variation of any of the foregoing, including, but not limited to, any game in which numerals, numbers, or any pictures, representations, or symbols are used as an equivalent or substitute for cards in the conduct of such game.~~

~~Any item described in subparagraph (B), (C), or (D) of this paragraph shall be a prohibited gambling device subject to and prohibited by this part, notwithstanding any inference to the contrary in any other law of this state."~~

SECTION 2.

Said article is further amended by revising subsection (a) of Code Section 16-12-21, relating to the offense of gambling, as follows:

"(a) Except as otherwise provided in Part 3 of this article, a ~~A~~ person commits the offense of gambling when he or she:

(1) Makes a bet upon the partial or final result of any game or contest or upon the performance of any participant in such game or contest;

(2) Makes a bet upon the result of any political nomination, appointment, or election or upon the degree of success of any nominee, appointee, or candidate; or

(3) Plays and bets for money or other thing of value at any game played with cards, dice, or balls."

SECTION 3.

Said article is further amended by revising subsection (a) of Code Section 16-12-22, relating to the offense of commercial gambling, as follows:

"(a) Except as otherwise provided by Part 3 of this article, a ~~A~~ person commits the offense of commercial gambling when he or she intentionally does any of the following acts:

(1) Operates or participates in the earnings of a gambling place;

(2) Receives, records, or forwards a bet or offer to bet;

(3) For gain, becomes a custodian of anything of value bet or offered to be bet;

(4) Contracts to have or give himself, herself, or another the option to buy or sell or contracts to buy or sell at a future time any gain or other commodity whatsoever or any

stock or security of any company, when it is at the time of making such contract intended by both parties thereto that the contract to buy or sell, the option whenever exercised or the contract resulting therefrom, shall be settled not by the receipt or delivery of such property but by the payment only of differences in prices thereof;

(5) Sells chances upon the partial or final result of or upon the margin of victory in any game or contest or upon the performance of any participant in any game or contest or upon the result of any political nomination, appointment, or election or upon the degree of success of any nominee, appointee, or candidate;

(6) Sets up or promotes any lottery, sells or offers to sell, or knowingly possesses for transfer or transfers any card, stub, ticket, check, or other device designed to serve as evidence of participation in any lottery; or

(7) Conducts, advertises, operates, sets up, or promotes a bingo game without having a valid license to operate a bingo game as provided by law."

SECTION 4.

Said article is further amended by revising subsection (a) of Code Section 16-12-23, relating to the offense of keeping a gambling place, as follows:

"(a) Except as otherwise provided by Part 3 of this article, a ~~A~~ person who knowingly permits any real estate, building, room, tent, vehicle, boat, or other property whatsoever owned by him or her or under his or her control to be used as a gambling place or who rents or lets any such property with a view or expectation that it be so used commits the offense of keeping a gambling place."

SECTION 5.

Said article is further amended by revising subsection (a) of Code Section 16-12-24, relating to the possession, manufacture, or transfer of gambling devices or parts for gambling devices and the possession of antique slot machines, as follows:

"(a) Except as otherwise provided by Part 3 of this article, a ~~A~~ person who knowingly owns, manufactures, transfers commercially, or possesses any device which he or she knows is designed for gambling purposes or anything which he or she knows is designed as a subassembly or essential part of such device is guilty of a misdemeanor of a high and aggravated nature."

SECTION 6.

Said article is further amended by revising subsection (a) of Code Section 16-12-26, relating to the offense of advertising gambling, as follows:

95 “(a) Except as otherwise provided in Part 3 of this article, a A person who knowingly
96 prints, publishes, or advertises any lottery or other scheme for commercial gambling or
97 who knowingly prints or publishes any lottery ticket, policy ticket, or other similar device
98 designed to serve as evidence of participation in a lottery commits the offense of
99 advertising commercial gambling.”

SECTION 7.

101 Said article is further amended by revising subsection (a) of Code Section 16-12-28, relating
102 to the offense of communicating gambling information, as follows:

103 “(a) Except as otherwise provided in Part 3 of this article, a ~~A~~ person who knowingly
104 communicates information as to bets, betting odds, or changes in betting odds or who
105 knowingly installs or maintains equipment for the transmission or receipt of such
106 information with the intent to further gambling commits the offense of communicating
107 gambling information.”

SECTION 8.

109 Said article is further amended by revising subsection (a) of Code Section 16-12-30, relating
110 to seizure and destruction of gambling devices, as follows:

111 "(a) Except as otherwise provided in subsection (b) of Code Section 16-12-24 or Part 3 of
112 this article, every gambling device is declared to be contraband and subject to seizure and
113 confiscation by any state or local authority within whose jurisdiction the same may be
114 found."

SECTION 9.

116 Said article is further amended by revising subsection (b) of Code Section 16-12-32, relating
117 to seizure and disposition of property used in or derived from a violation of the article, as
118 follows:

119 “(b) Except as otherwise provided in Part 3 of this article, all All property used in, intended
120 for use in, used to facilitate, or derived from or realized through a violation of this article
121 or which is located within any gambling place or within any vehicle or other conveyance
122 used to transport any gambling device, any subassembly or essential part thereof, card,
123 stub, ticket, check, funds, things of value, or other device designed to facilitate
124 participation in any lottery is declared to be contraband and may be seized and forfeited as
125 provided in this Code section.”

SECTION 10.

Said article is further amended by adding a new part to read as follows:

"Part 3

16-12-65.

As used in this part, the term:

(1) 'Bet' has the same meaning as set out in Code Section 16-12-20.

(2) 'Casino' means a location where persons may, for a consideration, play games of chance, including poker, blackjack, and other card games and keno, and operate gambling devices, including slot machines, roulette wheels, video card games, and other electronic or mechanical gaming devices, where the player bets for money or money is awarded for successful play, and where the player's success is determined by chance even though accompanied by some skill. Bingo games and raffles shall not be conducted in any casino, or by the owner or operator of any casino. No casino shall include a bona fide coin operated amusement machine operated in accordance with Code Section 16-12-35. No casino shall include a crane game or device that meets the requirements of Code Section 16-12-35.

(3) 'Gambling device' means any contrivance which for a consideration affords the player an opportunity to obtain money, the award of which is determined by chance even though accomplished by some skill, whether or not the prize is automatically paid by contrivance.

(4) 'Gross proceeds' means the total revenue of the pari-mutuel betting on horse races and dog races or casino operation from betting, playing gambling devices that offer cash awards, playing games of chance that offer cash awards, and gambling.

(5) 'Pari-mutuel betting' means a form of betting on horse races or dog races in which those who bet on the winner share the total stakes, less a percentage of the total stakes for the owner or operator of the pari-mutuel betting operation. The term shall not mean lottery games which may be predicated on a horse racing or dog racing scheme that does not involve actual track events. The term shall not mean any lottery game that involves distribution of winnings by pools.

16-12-66.

(a)(1) The governing authority of any county desiring to permit the operation of pari-mutuel betting on horse races and dog races, the operation of casinos, or the operation of both pari-mutuel betting on horse races and dog races and casinos within the unincorporated area of the county shall so indicate by the adoption of a resolution or

ordinance. Upon receipt of the resolution or ordinance, the election superintendent shall issue the call for an election for the purpose of submitting the question of whether pari-mutuel betting on horse races and dog races or casinos or both pari-mutuel betting on horse races and dog races and casinos shall be permitted within the unincorporated area of the county to the electors of the unincorporated area of the county for approval or rejection. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. The election superintendent shall also cause the date and purpose of the referendum to be published in the official organ of the county once a week for four weeks immediately preceding the date of the election. The ballot for the election shall have printed thereon one or two of the following questions, as set out in the resolution or ordinance:

(A) '☐ YES Shall the County of (name of county) permit the operation of ☐ NO pari-mutuel betting on horse races and dog races within the unincorporated area of (name of county) County?'

(B) '☐ YES Shall the County of (name of county) permit the operation of casinos ☐ NO within the unincorporated area of (name of county) County?'

(C) '☐ YES Shall the County of (name of county) permit the operation of both ☐ NO pari-mutuel betting on horse races and dog races and casinos within the unincorporated area of (name of county) County?'

All persons desiring to vote in favor shall vote 'Yes,' and all persons opposed shall vote 'No.' If more than one-half of the votes cast on such a question are in favor of permitting the activity or activities on the ballot, then all provisions of this part regarding the operation of pari-mutuel betting on horse races and dog races or casinos, or both pari-mutuel betting on horse races and dog races and casinos, appropriate to the question or questions approved in such referendum shall apply within the unincorporated area of the county. The election superintendent shall canvass the returns, declare the result of the election, and certify the result to the Secretary of State. The expense for the election shall be borne by the county conducting the election.

(2) The governing authority of any municipal corporation desiring to permit the operation of pari-mutuel betting on horse races and dog races, the operation of casinos, or the operation of both pari-mutuel betting on horse races and dog races and casinos within the municipal corporation shall so indicate by the adoption of a resolution or ordinance. Upon receipt of the resolution or ordinance, the municipal election superintendent shall issue the call for an election for the purpose of submitting the question of whether pari-mutuel betting on horse races and dog races or casinos, or both pari-mutuel betting on horse races and dog races and casinos, shall be permitted within the municipal corporation to the

electors of the municipal corporation for approval or rejection. The municipal election
superintendent shall issue the call and shall conduct the election on a date and in the
manner authorized under Code Section 21-2-540. The municipal election superintendent
shall also cause the date and purpose of the referendum to be published in the official organ
of the county once a week for four weeks immediately preceding the date of the election.
The ballot for the election shall have printed thereon one or two of the following questions,
as set out in the resolution or ordinance:

(A) '() YES Shall the City of (name of city) permit the operation of pari-mutuel
() NO betting on horse races and dog races within the City of (name of
city)?'

(B) '() YES Shall the City of (name of city) permit the operation of casinos within
() NO the City of (name of city)?'

(C) '() YES Shall the City of (name of city) permit the operation of both
() NO pari-mutuel betting on horse races and dog races and casinos within
the City of (name of city)?'

All persons desiring to vote in favor shall vote 'Yes,' and all persons opposed shall vote
'No.' If more than one-half of the votes cast on such a question are in favor of permitting
the activity or activities on the ballot, then all provisions of this part regarding the
operation of pari-mutuel betting on horse races and dog races or casinos, or both
pari-mutuel betting on horse races and dog races and casinos, appropriate to the question
or questions approved in such referendum shall apply within the municipal corporation.
The municipal election superintendent shall canvass the returns, declare the result of the
election, and certify the result to the Secretary of State. The expense for the election shall
be borne by the municipal corporation conducting the election.

(b)(1) In the event the governing authority of a county does not adopt a resolution
directing the election superintendent to issue a call for a referendum provided for in
paragraph (1) of subsection (a) of this Code section, then, upon a written petition
containing the signatures of 35 percent of the registered and qualified voters of the county
being filed with the election superintendent, such election superintendent, upon validation
of the petition, shall be required to issue the call for an election for the purpose of
submitting the question of whether pari-mutuel betting on horse races and dog races or
casinos, or both pari-mutuel betting on horse races and dog races and casinos, shall be
permitted within the unincorporated area of the county to the electors of the
unincorporated area of the county for approval or rejection. The election superintendent
shall issue the call and shall conduct the election on a date and in the manner authorized
under Code Section 21-2-540. The election superintendent shall also cause the date and

purpose of the referendum to be published in the official organ of the county once a week for four weeks immediately preceding the date of the election. The ballot for the election shall have printed thereon one or two of the following questions, as set out in the petition:

(A) ' () YES Shall the County of (name of county) permit the operation of () NO pari-mutuel betting on horse races and dog races within the unincorporated area of (name of county) County?'

(B) ' () YES Shall the County of (name of county) permit the operation of casinos () NO within the unincorporated area of (name of county) County?'

(C) ' () YES Shall the County of (name of county) permit the operation of both () NO pari-mutuel betting on horse races and dog races and casinos within the unincorporated area of (name of county) County?'

All persons desiring to vote in favor shall vote 'Yes,' and all persons opposed shall vote 'No.' If more than one-half of the votes cast on such a question are in favor of permitting the activity or activities on the ballot, then all provisions of this part regarding the operation of pari-mutuel betting on horse races and dog races or casinos, or both pari-mutuel betting on horse races and dog races and casinos, appropriate to the question or questions approved in such referendum shall apply within the unincorporated area of the county. The election superintendent shall canvass the returns, declare the result of the election, and certify the result to the Secretary of State. The expense for the election shall be borne by the county conducting the election.

(2) In the event the governing authority of a municipal corporation does not adopt a resolution directing the municipal election superintendent to issue a call for a referendum provided for in paragraph (2) of subsection (a) of this Code section, then, upon a written petition containing the signatures of 35 percent of the registered and qualified voters of the county being filed with the municipal election superintendent, such municipal election superintendent, upon validation of the petition, shall be required to issue the call for an election for the purpose of submitting the question of whether pari-mutuel betting on horse races and dog races or casinos, or both pari-mutuel betting on horse races and dog races and casinos, shall be permitted within the municipal corporation to the electors of the municipal corporation for approval or rejection. The municipal election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. The municipal election superintendent shall also cause the date and purpose of the referendum to be published in the official organ of the county once a week for four weeks immediately preceding the date of the election. The ballot for the election shall have printed thereon one or two of the following questions, as set out in the petition:

(A) '☐ YES Shall the City of (name of city) permit the operation of pari-mutuel betting on horse races and dog races within the City of (name of city)?'

(B) '☐ YES Shall the City of (name of city) permit the operation of casinos within the City of (name of city)?'

(C) '☐ YES Shall the City of (name of city) permit the operation of both pari-mutuel betting on horse races and dog races and casinos within the City of (name of city)?'

All persons desiring to vote in favor shall vote 'Yes,' and all persons opposed shall vote 'No.' If more than one-half of the votes cast on such a question are in favor of permitting the activity or activities on the ballot, then all provisions of this part regarding the operation of pari-mutuel betting on horse races and dog races or casinos, or both pari-mutuel betting on horse races and dog races and casinos, appropriate to the question or questions approved in such referendum shall apply within the municipal corporation. The municipal election superintendent shall canvass the returns, declare the result of the election, and certify the result to the Secretary of State. The expense for the election shall be borne by the municipal corporation conducting the election.

(3) A petition shall not be amended, supplemented, or returned after presentation to the election superintendent or municipal election superintendent, as appropriate. Validation shall, for the purposes of this Code section, be the procedure in which the election superintendent or municipal election superintendent determines whether each signature on the petition is the name of a registered and qualified voter. For the purposes of this Code section, the required number of signatures of registered voters of a political subdivision shall be computed based on the number of voters qualified to vote at the general election immediately preceding the presentation of the petition. Actual signers of the petition shall be registered and qualified to vote in the referendum election sought by the petition.

(c) Following the expiration of two years after any election is held which results in the disapproval of the activity or activities as provided in this part, another election on this question shall be held if another petition or resolution or ordinance as provided in subsection (a) or (b) of this Code section, is filed with the appropriate election superintendent.

(d) Nullification of a referendum approving such activity or activities held pursuant to this Code section shall be accomplished only as provided in subsection (e) of this Code section.

(e) In any county or municipal corporation which has at any time held an election in accordance with subsection (a) or (b) of this Code section resulting in a majority of the

votes being cast in favor of pari-mutuel betting on horse races and dog races, casinos, or both pari-mutuel betting on horse races and dog races and casinos, the appropriate election superintendent, upon a petition signed by at least 35 percent of the registered qualified voters of the county or the municipal corporation or a resolution or ordinance adopted by a county or municipal corporation, shall proceed to call another election for the purpose of nullifying the previous election in the same manner as prescribed by subsection (a) or (b) of this Code section. No election for nullification of a referendum shall be called or held within two years after the date of the declaration by the election superintendent of the results of the previous election held for the purposes of this Code section.

16-12-67.

In a county or municipal corporation that has approved the operation of pari-mutuel betting on horse races and dog races in accordance with this part:

(1) Use of a gambling device prohibited by Part 1 of this article in connection with pari-mutuel betting on horse races and dog races operated in accordance with this part is not unlawful;

(2) Betting on a horse race or dog race through pari-mutuel betting on horse races and dog races operated in accordance with this part is not unlawful.

(3) Operating or participating in the earnings of pari-mutuel betting on horse races and dog races operated in accordance with this part is not unlawful;

(4) Receiving, recording, or forwarding a bet or offer to bet in pari-mutuel betting on horse races and dog races operated in accordance with this part is not unlawful;

(5) Becoming a custodian of anything of value bet or offered to bet for gain in connection with pari-mutuel betting on horse races and dog races operated in accordance with this part is not unlawful;

(6) Knowingly permitting property owned by the person to be used for operation of pari-mutuel betting on horse races and dog races is not unlawful;

(7) Knowingly renting property with a view or expectation that it be used for pari-mutuel betting on horse races and dog races is not unlawful; and

(8) Knowingly owning, manufacturing, transferring commercially, or possessing a device which the person knows is designed for purposes of pari-mutuel betting on horse races and dog races or anything that the person knows is designed as a subassembly or essential part of such a device is not unlawful;

(9) Knowingly advertising pari-mutuel betting on horse races and dog races in accordance with this part is not unlawful; and

(10) Knowingly communicating information as to bets, betting odds, or changes in betting odds or knowingly installing or maintaining equipment for the transmission or

receipt of such information with the intent to further pari-mutuel betting on horse races and dog races in accordance with this part is not unlawful; and
(11) A gambling device used or designed for pari-mutuel betting on horse races and dog races in accordance with this part is not contraband.

16-12-68.

In a county or municipal corporation that has approved the operation of casinos in accordance with this part:

(1) Use of a gambling device prohibited by Part 1 of this article within a casino operated in accordance with this part is not unlawful;

(2) Betting on a game of chance or a gambling device within a casino operated in accordance with this part is not unlawful;

(3) Operating or participating in the earnings of a casino operated in accordance with this part is not unlawful;

(4) Knowingly permitting any property under ownership or control of the person to be used as a casino is not unlawful;

(5) Knowingly renting any property with a view or expectation that it be used as a casino is not unlawful;

(6) Knowingly owning, manufacturing, transferring commercially, or possessing a device that the person knows is designed for gambling purposes or anything which the person knows to be designed as a subassembly or essential part of such a device is not unlawful if such owning, manufacturing, transferring commercially, or possession is connected with the operation of a casino operated in accordance with this part;

(7) Advertising a casino operated in accordance with this part is not unlawful; and

(8) A gambling device in or in route to or from a casino operated in accordance with this part is not contraband.

16-12-69.

(a) The operation of pari-mutuel betting on horse races and dog races and casinos approved in accordance with this part shall be supervised by the Georgia Lottery Corporation, under the governance of the board of directors created by Code Section 50-27-5. The board of directors is authorized and directed to promulgate rules and regulations for the purpose of regulating the operation of pari-mutuel betting on horse races and dog races and casinos to provide fair chances for players to win, to prevent and reveal criminal or corrupt activity, and to maximize the recreational and economic benefits of pari-mutuel betting on horse races and dog races and casinos.

(b) The Georgia Lottery Corporation shall be responsible for selecting providers for pari-mutuel betting on horse races and dog races and casinos in each county and in each municipal corporation that approves pari-mutuel betting on horse races and dog races and casinos, or both, in accordance with procedures set out in Chapter 27 of Title 50 for selection of vendors for the lottery system. There shall not be more than two casinos in each county or municipal corporation that approves the operation of casinos.

16-12-70.

There is imposed a state assessment in the amount of 10 percent of the gross proceeds of each pari-mutuel betting on horse races and dog races or casino operation approved in accordance with this part from the owner or operator of such pari-mutuel betting on horse races and dog races or casino operation. The Georgia Lottery Corporation shall collect on a monthly basis an amount equal to 10 percent of such gross proceeds and such funds shall be transmitted to the Department of Revenue for deposit in the state treasury with the intent that these moneys be used to fund a trauma care system in Georgia and the direct and indirect costs associated with the administrator of such system and this Code section.

16-12-71.

(a) The governing authority of each county is authorized to impose an assessment of 10 percent of the gross proceeds of each parti-mutuel betting on horse races and dog races or casino operation approved in accordance with this part and located within the unincorporated area of such county from the owner or operator of such pari-mutuel betting on horse races and dog races or casino operation. Such governing authority shall collect on a monthly basis an amount equal to 10 percent of such proceeds and shall deposit such proceeds in the general fund of the county.

(b) The governing authority of each municipal corporation is authorized to impose an assessment of 10 percent of the gross proceeds of each pari-mutuel betting on horse races and dog races or casino operation approved in accordance with this part and located within the municipal corporation from the owner or operator of such pari-mutuel betting on horse races and dog races or casino operation. Such governing authority shall collect on a monthly basis an amount equal to 10 percent of such proceeds and shall deposit such proceeds in the general fund of the municipal corporation.

(c) Any revenue derived from the assessment amount collected pursuant to subsections (a) and (b) of this Code section shall be paid into a separate, segregated fund and used solely for the purpose of providing affordable assisted living and infrastructure and other public works and improvements."

408

SECTION 11.

409 This Act shall become effective on January 1, 2010, but only if on that date an amendment
410 to the Georgia Constitution becomes effective by virtue of the ratification of a resolution at
411 the November, 2009, state-wide election that authorizes the General Assembly to provide by
412 general law for pari-mutuel betting on horse races and dog races and casino gambling only
413 in unincorporated areas of counties and in municipal corporations where such activities have
414 been approved by referendum. If such resolution is not so ratified, this Act shall not become
415 effective and shall stand repealed in its entirety on January 1, 2010.

416

SECTION 12.

417 All laws and parts of laws in conflict with this Act are repealed.